

STATE COASTAL CONSERVANCY

Project Synopsis b. iv.

February 17, 1983

ESCONDIDO BEACH EASEMENT

File No.: D-82-26

REQUESTED ACTION: Acceptance of an offer to dedicate a vertical access easement to Escondido Beach in Malibu.

SHORT DESCRIPTION: A 10-foot wide public access easement from Pacific Coast Highway to the mean high tide line.

LOCATION: 27398/27400 Pacific Coast Highway, in the unincorporated area of Malibu, Los Angeles County (Exhibit 1, 2).

PROGRAM CATEGORY: Less-than-fee dedication.

PRELIMINARY
COST ESTIMATE: Administrative support costs.

STAFF DISCUSSION:
Project Description- This project entails the acceptance of an offer to dedicate a vertical access easement at 27398/27400 Pacific Coast Highway in the unincorporated area of Malibu (Exhibits 1, 2). The easement provides for public access to Escondido Beach from Pacific Coast Highway across Escondido Beach Road. The road is private, and without this easement, impassable. The easement crosses a parking lot at Pacific Coast Highway, descends recently-constructed stairs to the private road, crosses the road to a ten-foot wide vertical beach path, and continues along that path to the mean high tide line of the beach (Exhibit 3). The easement lies 3,000 feet to the east of the chiate parking and vertical access easements located at 27900 Pacific Coast Highway, which the Conservancy accepted in June 1982.

Paid parking is available at the Holiday House Restaurant at the site of the access easement. Presently, the public may park on Pacific Coast Highway 200 feet beyond either side of the easement. parking is prohibited on Pacific Coast Highway in the Paradise Cove and Escondido Creek areas.

Site History- The offer of dedication was recorded in December, 1978 by a partnership round BFS pursuant to Coastal Development Permit granted on January 30, 1975 (p-77-1230). The permit applicants sought to convert ten apartment units to condominiums and the South Coast Regional Commission found that without a provision for public access to Escondido Beach, the permit could not be granted. The permit also required the applicant to post two public access signs, one at the property's highway entrance and one at the top of the staircase, stating that the accessway is available for public use during daylight hours. This has not yet been done.

CONSISTENCY WITH THE
CONSERVANCY'S ENABLING
LEGISLATION:

The Conservancy is authorized under Public Resources Code Section 31104.1 to accept offers of dedication of less-than-fee interests in land whose reservation is required to meet the policies and objectives of the California Coastal Act of 1976 (commencing with Public Resources Code Section 30000). The latter determination has already been made by the Coastal Commission.

CONSISTENCY WITH
CONSERVANCY
GUIDELINES:

Significance- The Coastal Act requires that, where appropriate, "public access from the nearest public road to the shoreline... shall be provided in new developments..." This easement helps to open a previously-inaccessible critical coastal recreation area. By so doing, this project complements, and meets the criteria of, the Conservancy's Public Access Program.

Need- Fee acquisition of this accessway is unnecessary since the public's access to the shore can be assured by acceptance of the easement.

It appears that the Conservancy is the most appropriate agency to accept the offer of dedication. Los Angeles County rejected the offer in 1978. The Coastal Commission has acknowledged that the Conservancy is an appropriate agency to accept the offer of dedication (Exhibit 4).

Management and maintenance- The Conservancy will be responsible for management and maintenance of the accessway once it is open for public use. No development, beyond signing, is required to open the accessway to the public. BFS Partnership, the permit applicant, constructed a staircase from the parking lot at Pacific Coast Highway, to Escondido Beach Road. A management plan will be prepared by the Conservancy staff prior to opening the accessway up to the public. The easement is presently used by the condominium residents.

Scope- Acceptance of this offer of dedication helps to open up a beach in a region of critical access need. Malibu is a twenty-seven mile shoreline area of Los Angeles County, of which only seven miles is available for public beach access.

Cooperation with local government- Due to the relatively recent establishment of the Los Angeles County Department of Harbors and Beaches, the department has been unable to evaluate dedications of access easements within the county.

Completeness of proposal- The offer of dedication instrument is a properly executed and acknowledged document with a legally sufficient description of the interest to be conveyed. The Conservancy has a copy of a current preliminary title report showing title in the grantor and no liens or encumbrances senior to the recorded offer that might interfere with the easement interest.

CONSISTENCY WITH
COASTAL ACT

POLICIES:

The easement helps to open up public access from Pacific Coast Highway to Escondido Beach, a previously-inaccessible critical coastal recreation area (Public Resources Code Section 30210, 30212 and 30214).

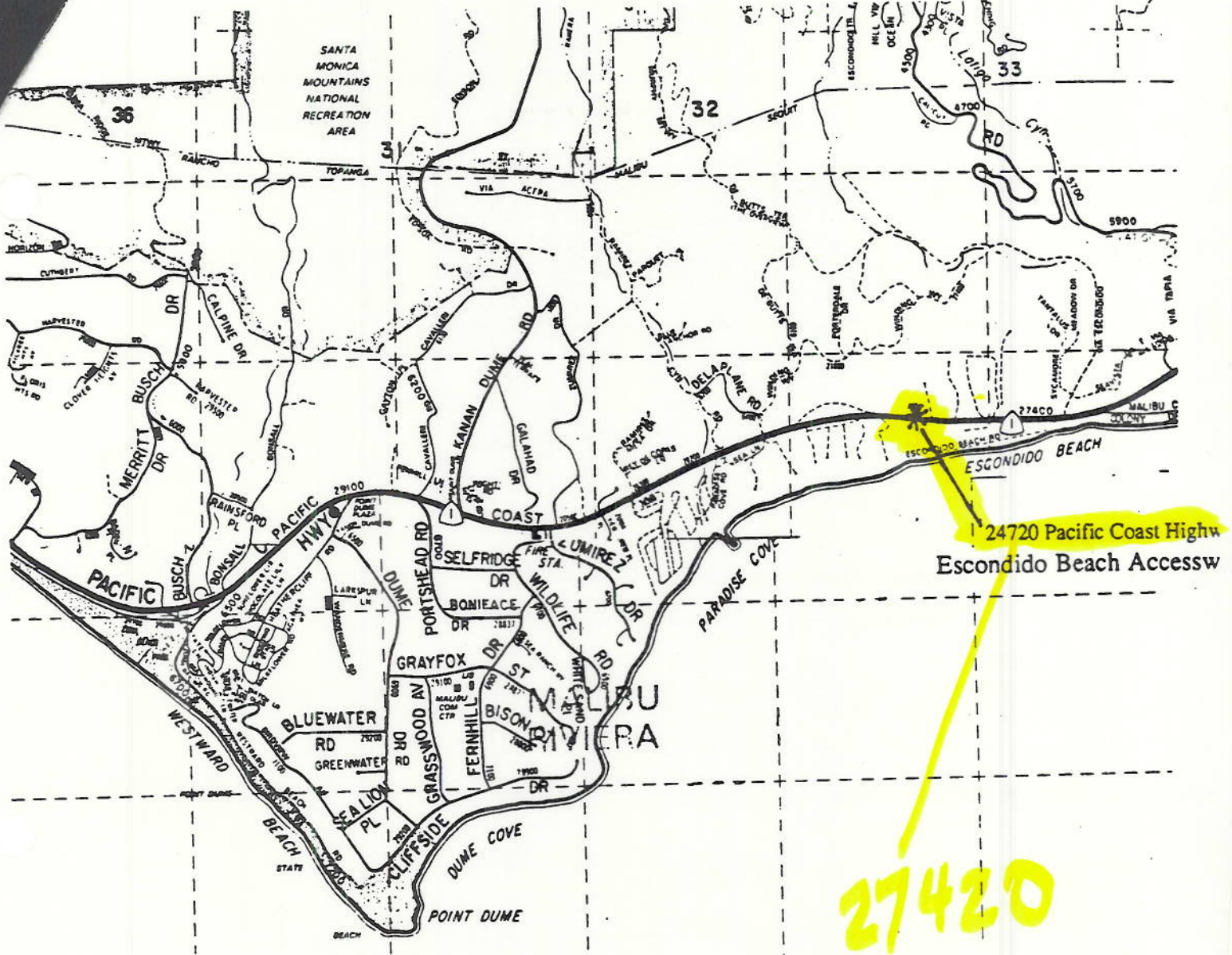


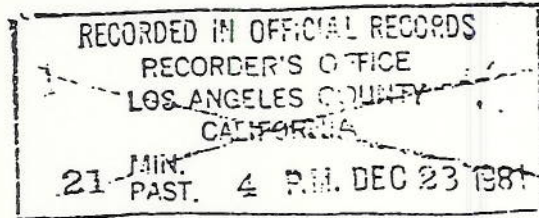
Exhibit A

83- 108579

81-57943

Return Original To and
Recording Requested By:

STATE COASTAL CONSERVANCY
1330 BROADWAY, SUITE 1100
OAKLAND, CA 94612



FREE C

FREE L

IRREVOCABLE OFFER TO DEDICATE

I. WHEREAS, Dr. Roger S. Wolk, Kenneth R. Chiate, Jeanette Chiate, Marilyn S. Wolk are the record owners, hereinafter referred to as "owners," of the real property located at 27900 Pacific Coast Highway, Malibu, Los Angeles County, California, legally described as particularly set forth in attached Exhibit A hereby incorporated by reference and hereinafter referred to as the "subject property"; and

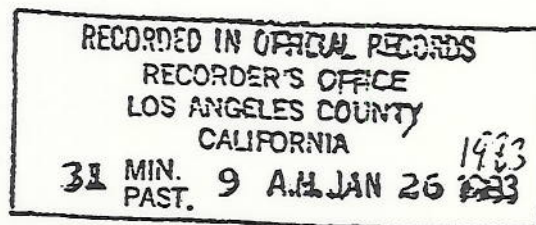
II. WHEREAS, the California Coastal Commission, hereinafter referred to as "the Commission," is acting on behalf of the People of the State of California; and

III. WHEREAS, the People of the State of California have a legal interest in the lands seaward of the mean high tide line; and

IV. WHEREAS, pursuant to the California Coastal Act of 1976, the owners applied to the Commission for a coastal development permit for subdivision of a 5.3-acre parcel into two parcels of 2.6 and 2.7 acres each on the subject property; and

V. WHEREAS, a coastal development permit no. PE-80-2707 was granted on April 9, 1981, and amended by 5-81-44(A1) on July 22, 1981, by the Commission in accordance with the provisions of the Staff Recommendation and Findings shown in attached Exhibit B and hereby incorporated by reference, subject to the following condition:

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Prior to the issuance of permit, the applicant shall execute and record a document in a form and content approved by the Executive Director of the Commission irrevocably offering to dedicate to an agency approved by the Executive Director an easement for public pedestrian access from Pacific Coast Highway to the shoreline. Such easement shall be recorded free of prior liens and clear of encumbrances which the Executive Director determines may affect the interest being conveyed or post bond to cover the encumbrances.

VI. WHEREAS, the subject property is a parcel located between the first public road and the shoreline; and

VII. WHEREAS, under the policies of Sections 30210 through 30212 of the California Coastal Act of 1976, public access to the shoreline and along the coast is to be maximized, and in all new development projects located between the first public road and the shoreline shall be provided; and

VIII. WHEREAS, the Commission found that but for the imposition of the above condition, the proposed development could not be consistent with the public access policies of Section 30210 through 30212 of the California Coastal Act of 1976 and that therefore in the absence of such a condition, a permit could not have been granted;

NOW, THEREFORE, in consideration of the granting of permit no. PE-80-2707 and 5-81-44(A1) to the owners by the Commission, the owners hereby offer to dedicate to the People of California an easement in perpetuity for the purposes of public pedestrian access to the shoreline located on the subject property ten feet wide and as specifically set forth by attached Exhibit C hereby incorporated by reference. The location of the easement as set forth in Exhibit C has been modified from that shown in Document 8-1161952 as recorded in the County of Los Angeles on November 18, 1980. This document is a substitute for Document 8-1161952.

1 This offer of dedication shall be irrevocable for a period of twenty-one
2 (21) years, measured forward from the date of recordation, and shall be
3 binding upon the owners, their heirs, assigns, or successors in interest to
4 the subject property described above. The People of the State of California
5 shall accept this offer through the County of Los Angeles, the local
6 government in whose jurisdiction the subject property lies, or through a
7 public agency or a private association acceptable to the Executive Director
8 of the Commission or its successor in interest.

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Acceptance of the offer is subject to a covenant which runs with the land, providing that the offeree to accept the easement may not abandon it but must instead offer the easement to other public agencies or private associations acceptable to the Executive Director of the Commission for the duration of the term of the original offer to dedicate. The grant of easement once made shall run with the land and shall be binding on the owners, their heirs, and assigns.

Executed on this 11th day of December, 1981, in the City of Los Angeles, County of Los Angeles Calif

Dated: 12/11/81

Signed: Kenneth R. Chute

Type or Print Name of Above

Signed: Roger S. Walk by Kenneth R. Chute by Power of Attorney and Attorney-in-Fact

Type or Print Name of Above

Signed: Marilyn S. Walk by Kenneth R. Chute, Attorney-in-Fact

Type or Print Name of Above

Signed: Jeannette Chute by Kenneth R. Chute, Attorney-in-Fact

Type or Print Name of Above

STATE OF CALIFORNIA

COUNTY OF

On _____, before the undersigned, a Notary Public in and for said State, personally appeared _____

whose names are subscribed to the within instrument, and acknowledge that they executed the same.

Notary Public in and for said County and State

(Individual)

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES } SS.On December 11, 1981before me, the undersigned, a Notary Public in and for said State, personally appeared Kenneth R. Christie

known to me
to be the person — whose name is subscribed
to the within instrument and acknowledged that he
executed the same.

WITNESS my hand and official seal.

Signature

Marlyn A. Garant
MARLYN A. GARANT



83- 108579

TO 444 C

(Attorney in Fact)

(TI)

STATE OF CALIFORNIA

COUNTY OF Los Angeles } SS.On December 11, 1981before me, the undersigned, a Notary Public in and for said State, personally appeared Kenneth R. Christieknown to me to be the person — whose name is subscribed to the within instrument, as the Attorney — in fact of Jessette Christie

and acknowledged to me that he subscribed the name —
of Kenneth R. Christie thereto as principal —
and his own name — as Attorney — in fact.

WITNESS my hand and official seal.

Signature

Marlyn A. Garant
MARLYN A. GARANT
Name (Typed or Printed)



83- 108579

(This area for official notarial seal)

TO 444 C

(Attorney in Fact)

(TI)

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES } SS.On December 11, 1981before me, the undersigned, a Notary Public in and for said State, personally appeared Kenneth R. Christieknown to me to be the person — whose name is subscribed to the within instrument, as the Attorney — in fact of Roger S. Walk and Marilyn S. Walk

and acknowledged to me that he subscribed the name —
of Marilyn S. Walk thereto as principal —
and his own name — as Attorney — in fact.

WITNESS my hand and official seal.

Signature

Marlyn A. Garant
MARLYN A. GARANT
Name (Typed or Printed)



83- 108579

(This area for official notarial seal)

This is to certify that the offer of dedication set forth above dated
December 11, 1981, and signed by Kenneth R. Chiat, Mr. & Mrs. Pige
Wolk, Jeanette Chiat, owner(s), is hereby acknowledged by the
undersigned officer on behalf of the California Coastal Commission pursuant
to authority conferred by the California Coastal Commission when it granted
Coastal Development Permit No. 5-81-35 on April 7, 1980 and the
California Coastal Commission consents to recordation thereof by its duly
authorized officer.

Dated: December 21, 1981

Cynthia K. Long
CYNTHIA K LONG LEGAL COUNSEL
California Coastal Commission

STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

On December 21, 1981, before the undersigned, a Notary Public in
and for said State, personally appeared Cynthia K. Long,
Legal Counsel known to me to be the authorized representative
of the California Coastal Commission and known to me to be the person who
executed the within instrument on behalf of said Commission, and acknowledged
to me that such Commission executed the same.

Witness my hand and official seal.

Fay Thomas
Notary Public in and for said County and
State
FAY THOMAS
NOTARY PUBLIC-CALIFORNIA
CITY AND COUNTY OF
SAN FRANCISCO
My Commission Expires Dec. 14, 1984

~~81-1259343~~

EXHIBIT A

County of Los Angeles, State of California,

Parcel 2 of Parcel Map No. 7543 as per map thereof filed
in Book 135 Pages 58 and 59 of Parcel Maps, in the Office
of the County Recorder of Said County.

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83- 108579

Memorandum

CALIFORNIA COASTAL COMMISSION
SOUTH COAST-REGION V
P. O. Box 1450
Long Beach, CA 90801
(213) 590-5071 (714) 846-0648

81-1259943

TO: STATE COMMISSION

FROM: MICHAEL L. FISCHER, EXECUTIVE DIRECTOR

SUBJECT: REQUEST FOR AMENDMENT TO PERMIT NO. P/PE-80-2707 (KENNETH/JEANNETTE CHIA TE & ROGER/MARILYN WOLK)

PROCEDURES

In the case of permits issued by the Commission under the Coastal Act of 1976, the Commission regulations (Section 13166) permit applicants to request approval by the Commission of amendments to the project or permit conditions. The Commission may approve an amendment if it finds that the revised development is consistent with the Coastal Act. The staff recommends that the Commission hold a public hearing on the amendment request, and at the close of the public hearing, vote on the request.

1. Project Description. The project approved in the original permit application P-80-2707, and permit extension PE-80-2707 was the subdivision of a 5.3 acre parcel into two parcels of 2.6 acres and 2.7 acres each. The extension request was submitted by the applicant in order to resolve the question of the location of the vertical easement condition which the South Coast Regional Commission had found, after public hearing, would offer mitigation measures (in addition to a lateral access easement condition and no further subdivision until in conformance with the LCP of Los Angeles County) and thus could be found to be in conformance with the provisions of Chapter 3 of the California Coastal Act of 1976.

The vertical access condition was the subject of a great deal of discussion with both the South Coast Regional Commission staff and the State Commission legal staff in an attempt to locate a vertical easement which would be acceptable to all parties concerned. On November 18, 1980 an Irrevocable Offer to Dedicate (#80-1161952) a vertical access was recorded in the official records of Los Angeles County. A portion of that offer reads, in part, that:

"....The easement may be resited subject to issuance of a permit by the Regional Commission or the Commission where there is no Regional Commission. Improvements to the access easement may be required as a condition of the issuance of the permit."

At the time prior to the recordation, the applicant indicated in a letter to the Commission (File P-2707, August 20, 1979) that he owned only the parcel which was the subject of the above-referenced permit, and had no legal interest in an adjacent one-acre parcel. Since that time, the applicant purchased an interest in the adjoining one-acre parcel and recently applied for a permit to build a single-family dwelling on the one-acre parcel. The application for permit SF-80-7554 (Appeal #44-81) was approved and the permit has been issued.

81-108570

EXHIBIT B

The applicant has also submitted a request to construct a single-family dwelling on the 2.6 acre parcel, application for permit SF-81-7867 which was scheduled for hearing before the South Coast Regional Commission on June 1, 1981. A condition of approval on the requested application was for the applicant to construct the vertical access easement specifically as set forth in the recorded document #30-1161952.

Prior to the June 1, 1981 hearing, the applicant requested that the condition be changed allowing him to construct the vertical access easement in another location (a portion of which would be located on the one-acre parcel adjoining the 2.6 acre parcel). He was advised by staff to request a continuation of permit SF-81-7867 (45-81-35) until such time as an amendment request could be placed on a calendar before the Commission for the relocation of the vertical access easement (45-81-44/A/).

2. Proposed Amendment. The applicant states that the relocation of a portion of the vertical access over the one-acre parcel is now feasible since the applicant has a legal interest in the property. The applicant also states that because of the shape of the 2.6 acre parcel, the installation of a drain, and the relocation of the existing roadway, a better pedestrian access location can be provided which essentially provides a 10 foot vertical pedestrian access easement in the same location as initially required by the South Coast Regional Commission insofar as the easement runs from Pacific Coast Highway to the commencement of the one-acre parcel, and then"to run through the one-acre property (approximately 10 to 15 feet to the east of where it is currently located on the recorded offer to dedicate to the ocean end of the one-acre parcel, and then to run through the subject parcel to the beach in essentially the same location as previously dedicated". (See Exhibit 1.)

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants, subject to the condition below, an amendment to the subject permit on the grounds that, as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program in conformity with the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Conditions.

The amendment is subject to the following conditions:

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1. Prior to issuance of the permit, the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved by the Executive Director of the Commission, irrevocably offering to dedicate to an agency approved by the Executive Director, an easement for public pedestrian access to the shoreline. Such easement shall be ten (10) feet wide located along the easterly portion of Assessor's Parcel Map #4460-32-14 in a southerly direction, thus following the most westerly portion of Assessor's Parcel Map #4460-32-13 to its most southerly end, and again reentering Assessor's Parcel Map #4460-32-14 following the most easterly portion in a southerly direction and extend from the Pacific Coast Highway to the mean high tide line of the Pacific Ocean. Such easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may affect the interest being conveyed.

The offer shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

→ 2. Prior to issuance of permit, the applicant shall submit documentation which shows all legal interest in the subject parcels (APM #4460-32-13 and APM #4460-32-14), and shall submit a letter signed by all parties having legal interest in subject parcels which approves the recordation, and construction of the vertical access easement on said parcels.

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EXHIBIT
B